

FACTSHEET

TITLE: **USE PERMIT NO. 136**, requested by Mark Hunzeker on behalf of Jerry Joyce, for a three-story, 51,122 sq. ft. office building, with requests to waive the front and side yard to allow parking therein, and to waive the parking lot screening design standards along "O" Street, on property generally located at 8035 "O" Street.

STAFF RECOMMENDATION: Conditional approval.

SPONSOR: Planning Department

BOARD/COMMITTEE: Planning Commission
Public Hearing: 01/24/01
Administrative Action: 01/24/01

RECOMMENDATION: Conditional approval, with amendment to Condition #2.1 (9-0: Newman, Duvall, Schwinn, Taylor, Steward, Hunter, Carlson, Krieser and Bayer voting 'yes').

FINDINGS OF FACT:

1. The Planning staff recommendation of conditional approval is based upon the "Analysis" as set forth on p.4-5, concluding that the proposed 0.62 FAR and the reduction of open space indicates that the site is over- developed based on the .25 FAR identified by the Comprehensive Plan and upon the .55 FAR of the office development to the east. The FAR should decrease, not increase, when a development is located further away from more intense development. The more intense development, including a service station and restaurants, are located to the east of the abutting office building. This plan should provide the same open space along the south lot line as the office development to the east. The reduction of the side yard on the east should be used to increase the side yard along the west that abuts single family homes.
2. The applicant's testimony is found on p.8-9, including a request to amend Condition #2.1 to allow a 51,122 sq. ft. office building (as opposed to 45,000 sq. ft. as recommended by staff).
3. Robert Wright testified in opposition (p.8-9). He is opposed to the size of the building.
4. The Planning Commission discussion is found on p.9-10.
5. On January 24, 2001, the Planning Commission passed a motion to amend Condition #2.1 as requested by the applicant, from 45,000 sq. ft. to 51,122 sq. ft. (6-3: Duvall, Schwinn, Taylor, Carlson, Krieser and Bayer voting 'yes'; Newman, Steward and Hunter dissenting).
6. On January 24, 2001, the Planning Commission voted 9-0 to agree with the staff recommendation of conditional approval, with amendment to Condition #2.1 as requested by the applicant.
7. The Site Specific conditions of approval required to be completed prior to scheduling this item on the Council agenda have been submitted by the applicant and approved by the reviewing departments.

FACTSHEET PREPARED BY: Jean L. Walker

DATE: March 5, 2001

REVIEWED BY: _____

DATE: March 5, 2001

REFERENCE NUMBER: FS\CC\FSUP136

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****As Revised by Planning Commission on 01/24/01****

- 2 -

HISTORY:

On April 29, 1963, the area to the east was rezoned from A-2 to G-1.

On April 24, 1972, a request from A-2 to G-1 on lot 59 I.T. was denied by the Planning Commission and the application was withdrawn.

On May 8, 1979, the A-2 was converted to R-2 during the zoning update.

On February 28, 1996, the Planning Commission deferred the public hearing until a public hearing on an associated use permit.

On September 11, 1996, the Planning Commission placed Use Permit #91, which was an office development on a larger site, and Change of Zone #2972 on pending until further notice.

On September 16, 1996, J. Michael Rierden requested that Change of Zone #2972 be placed on the Planning Commission agenda and that Use Permit #91 be withdrawn.

On September 29, 1997, change of zone #2972 from R-2 to O-3 was approved by the City Council.

On February 2, 1998, change of zone 3103, a text amendment to allow, under specific provisions, use permits in the O-3 district on less than 2 acres, was approved by the City Council. This site meets the requirements of that amendment.

On May 18, 1998, the City Council approved Use Permit #110 for a 41,250 sq. ft. office building on the lot to the east.

SPECIFIC INFORMATION:**UTILITIES:**

Public water and sanitary sewer are available in "O" Street.

TOPOGRAPHY:

The land slopes down 13' from the northeast corner to the southwest corner of the site.

The Public Works & Utilities Department finds the storm sewer and detention as proposed is satisfactory.

TRAFFIC ANALYSIS:

The Public Works & Utilities has recommended that the proposed 25' wide driving aisles be reduced to 24'. This reduction, which meets standards, will reduce the impact on the parking in the required yards.

PUBLIC SERVICE:

The nearest fire station is located at 84th and South Streets.

REGIONAL ISSUES:

None apparent

ENVIRONMENTAL CONCERNS:

The lost of mature trees and the increase in impervious materials on the site.

AESTHETIC CONSIDERATIONS:

The amount of open space along the south property line for landscaping should be increased to match the 32' landscape area provided by the office building to the east.

The unique landscape design while not in strict compliance with the parking lot design standards adds character to "O" Street and meets the intent of the standard.

ALTERNATIVE USES:

Revise the plan to provide the same amount of open space along the south property line as provided by the office development to the east and increase the open space along the west to balance the open space lost with the reduction of the side yard along the east property line.

ANALYSIS:

1. The applicant requested a reduction to the front yard and the side yard. The letter accompanying the application indicated the waiver provides additional distance from the building to the neighbors to the south and the proposed landscape and fence screening on the west and south will minimize the visual or audible impact on the adjacent properties.

The plan proposed a 12' front yard along "O" Street and less than a 2' side yard along the east. The standard yards in the O-3 district are 20' for the front, 15' or the same as the abutting district whichever is greater for the side yard, and 40' for the rear yard.

Parking is permitted in the rear yard but not in the front and side yards. Parking is proposed as close as 15' of the south lot line.

Reducing the front yard along "O" Street (the right-of-way includes a frontage road) and the side yard along the east which abuts a parking lot in order to move the development away from the single family homes has merit. However the development has not been moved equal to the reduction. The proposed 15' open space along the west is no more than the standard 15' side yard in the O-3 District.

When Use Permit #110 on the lot to the east was approved, the City Council adjusted the front yard from 20' to 0' with a 32' landscaped rear yard and adjusted the side yard based on the land to the east was zoned B-2 with a service station and the land to the west (this property) was zoned O-3.

2. The proposed floor area ratio (FAR) is 0.62. The FAR on the lot to the east is 0.55. A 0.55 FAR on this site would permit a 45,091 square feet of floor area rather than the proposed 51,000.

The Comprehensive Plan projects new commercial development at a 0.25 FAR.

3. The plan proposes 171 parking spaces. Based on the Zoning Ordinance requirement of one parking space per 300 square feet of floor area the 51,000 square foot office building would require 170 parking spaces. Parking ratio for doctors and dentists is one parking space per 225 square feet of floor area. The 171 parking spaces would not permit any doctors or dentists in the office building.
4. The proposed landscape screen along "O" Street does not comply with the design standards however the design uses tall grasses, raised planter beds, and a wrought iron fence that adds character to the screen. The plan, while not in strict compliance with the design standards, does meet the intent of the standard of screening the view of the parking lot from the street.

The review of the landscape plan could not be completed due to the quality of the reproduction creating fuzzy lettering and the lack of the design detail for the vinyl fence. The review of the landscape plan cannot be completed until a plan with sharp lettering and the design of the vinyl fence have been submitted.

STAFF CONCLUSION:

The proposed 0.62 FAR and the reduction of open space indicates that the site is over developed based on the .25 FAR identified by the Comprehensive Plan and upon the .55 FAR of the office development to the east.

The FAR should decrease not increase when a development is located further away from more intense development. The more intense development including a service station and restaurants are located to the east of the abutting office building.

This plan should provide the same open space along the south lot line as the office development to the east. The reduction of the side yard on the east should be used to increase the side yard along the west that abuts single family homes.

STAFF RECOMMENDATION:

Conditional approval

CONDITIONS:

Site Specific:

1. After the applicant completes the following instructions and submits the documents and plans to the Planning Department office and the plans are found to be acceptable, the application will be scheduled on the City Council's agenda:

1.1 Revise the site plan to show:

1.1.1 The Planning Commission Approval certificate deleted.

- 1.1.2 The same amount of land area indicated on the Notes, the Zoning Information and the Legal Description.
- 1.1.3 The same amount floor area indicated on the plans, application and the accompanying letter.
- 1.1.4 The lettering is sharper and the design detail of the vinyl fence is included on the Landscape Plan.
- 1.1.5 The driving aisles reduced to 24' in width and the building and parking moved further away from the south and west property line accordingly.

2. This approval permits:

- 2.1 An office building with ~~45,000~~ 51,122 square feet of floor area. (****Per Planning Commission, 01/24/01****)
- 2.2 A reduction of the front yard from 20' to 12' and the east side yard from 15' to 0' in order to allow parking therein.
- 2.3 A waiver of the parking lot screening design standards along "O" Street.

General:

3. Before receiving building permits:

- 3.1 The permittee shall have submitted a revised and reproducible final plan including 5 copies to the Planning Department.
- 3.2 The construction plans shall comply with the approved plans.

STANDARD CONDITIONS:

4. The following conditions are applicable to all requests:

- 4.1 Before occupying the office building all development and construction shall have been completed in compliance with the approved plans.
- 4.2 All privately-owned improvements shall be permanently maintained by the owner.
- 4.3 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
- 4.4 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.

- 4.5 The City Clerk shall file a copy of the resolution approving the permit and the letter of acceptance with the Register of Deeds. The Permittee shall pay the recording fee in advance.

Prepared by:

Ray Hill
Acting Assistant Director of Planning of Land Use

USE PERMIT NO. 136

PUBLIC HEARING BEFORE PLANNING COMMISSION:

January 24, 2001

Members present: Newman, Duvall, Schwinn, Taylor, Steward, Hunter, Carlson, Krieser and Bayer.

Planning staff recommendation: Conditional Approval.

Ray Hill of Planning staff submitted a late report from Health Dept. that finds no serious negative environmental health impacts. They do note, however, the impact of additional parking and runoff from additional parking lots.

Proponents

1. Mark Hunzeker appeared on behalf of the developer of this project. Three years ago they came forward with a proposed change of zone on property adjacent to this and at that time they were joined by a number of neighbors to the south who owned residential property abutting the proposed office building who were very concerned about the potential impact of an office building on that site, including drainage, potential impact on property values and appearance. During this project's initial stages, Jerry Joyce met with the neighbors and took to heart all of the neighbor's comments. Joyce solicited the help of abutting commercial property owners to allow him to solve the existing drainage problem. He worked individually with each of the abutting residential owners to work out landscaping and buffering along the south boundary. Some of the most vociferous opponents of the initial project have become very friendly toward this project. The appearance of the project has evolved in a very favorable manner and the relationship with the abutting property owners went from very bad to excellent. This is a good example of what can be done on an infill site if a lot of effort is put into it.

This project is a proposal to build a virtual twin of the existing building. The attempt is to provide a more intense landscaping treatment on the front of both the parking lot along "O" Street and immediately adjacent to the building, as well as to provide a very intense landscaping treatment as it abuts the residential neighbors. They had a meeting and invited all of the abutting residential neighbors again. Those who did attend gave no negative feedback. This building will provide a noise buffer from "O" Street and the additional landscaping will also provide a buffer. This project will clean up what has been kind of a weedy low area which holds occasional water and tends to be a "hang-out place" for people who don't need to hang out in the rear of those residential properties.

Hunzeker pointed out that the staff thought they were too close to the property on the west, so they adjusted and moved the building to the east and are in compliance with the side yard setback on the west. Hunzeker's only proposed amendment to the conditions of approval was Condition #2.1 to eliminate 45,000 sq. ft. and substitute 51,122 sq. ft. for the office building. There is no standard in the O-3 that dictates a lower building coverage. He concurred that they will not have enough parking for medical offices, but that is not the kind of tenant they anticipate.

Opposition

1. Robert Wright, 211 East Cherrywood, testified in opposition. He opposed the original proposal for the Lot 59 development simply because he thought it was too big. The neighbors thought an office park was a pretty good idea. But, what we wound up getting was a large tall building shoe-horned into the small lot that was there. There were many exceptions made for that approval. Wright showed a map of the original approval – a large building on Lot 59 and two smaller 10,000 sq. ft. buildings on the other two lots. The only use permit granted was for the large building. Now this proposal is for another large building that is going

to be jammed in there. There is an attractive office park across “O” Street that includes three or four smaller buildings and that was all very well done. To the west abutting the Maple Village area is the Hampton Development on the south side of “O”, very attractively done. He cannot see that you call this an office park where you have two large buildings shoe-horned into a very small area, with practically every piece of available ground paved with a parking lot. Wright objects to the idea of an office park – this does not come anywhere close to it. It may not cause problems for his property and the abutting owners may adjust to the towering buildings in their back yard, but he knows that a landowner is supposed to be able to make reasonable use of his property and he does not consider this reasonable. It is too big.

Steward asked the applicant to explain the rather unusual language in the proposal description, “...providing a unique solution for the screening.” What is making this unique? Hunzeker responded that along the “O” Street side they are providing a very heavy landscape screen. There will be a fence along the front similar to the fence that is in place, but it will also be broken up by a landscape screen all the way along the front of the property, which they were not able to do with the other building. There will be brick pillars for the fence and some plantings.

Bob Schoenleber, architect for the project, added that the intent of the landscaping was to create something a little bit less strict. The idea is to use some plant materials that one would not normally see in the front yard screen—grasses, roses, color--and then mix that into a fence sign element that could be tied into the building.

Hunzeker added they are requesting a waiver of a portion of the front yard requirement, and one of the reasons for that is to have a different landscaping treatment because the more we can do in front of the building, the less parking gets pushed into the rear yard. The entire project was pushed all the way to a zero setback on “O” Street to the existing building to provide a bigger setback on the residential side to the south. This gave them the ability to provide a detention cell within the parking lot. Here they wanted to do softer treatment on the front of the building. The neighbors were approving of this.

Steward is concerned about the visual separation between the private residences and the parking lot. Schoenleber stated that they are not trying to do 200' of lineal fence. They want to stagger it to allow some of the landscaping to be put on the residential side. Steward inquired about the planting distance between the two fences. Schoenleber stated that a retaining wall at the parking area on the south is shown as a decorative block retaining wall. That block retaining wall is for the retention area and holding the water on site. It will go below curb height. Hunzeker added that it drops the parking area below grade. The retention area goes down below where the fence is. This refers to the southwest corner of the site. Hunzeker assured that the fence will not be just a solid wall. They will have the ability to get between those areas and have plantings on both sides of the fence all the way.

Hunzeker concurred that in their initial take three years ago, there were three buildings shown on the site. Part of the reason for that was that at that time there were three owners of the property. One parcel was under one ownership; we had an intervening owner with an older home on one parcel; and then a third owner who had held the property for 30-40 years with anticipation of commercial development. With those separate ownerships and the setback requirements and access requirements, without the ability to cross property lines, it was almost impossible to build what is being proposed. We showed what we could show at the time. With the sale of the middle property and the acquisition of the final parcel, we thought that everyone would be happier with a twin to what we now have as opposed to trying to put kind of a “Mutt and Jeff” approach in there side by side. He believes this will be a much more attractive project.

Public hearing was closed.

ADMINISTRATIVE ACTION BY PLANNING COMMISSION:

January 24, 2001

Hunter moved to approve the Planning staff recommendation of conditional approval, seconded by Newman.

Duvall moved to amend Condition #2.1 to 51,122 sq. ft., as requested by the applicant, seconded by Schwinn.

Hunter believes that the square footage recommended by staff relates to the FAR requirements. Ray Hill explained that the 45,000 sq. ft. relates to the same FAR that was granted to the owner on the office building to the east. All staff is saying is that the building size is greater than the project to the east. Rather than increase the intensity as you move away from 84th and "O" we should stay at least equal to, and not more.

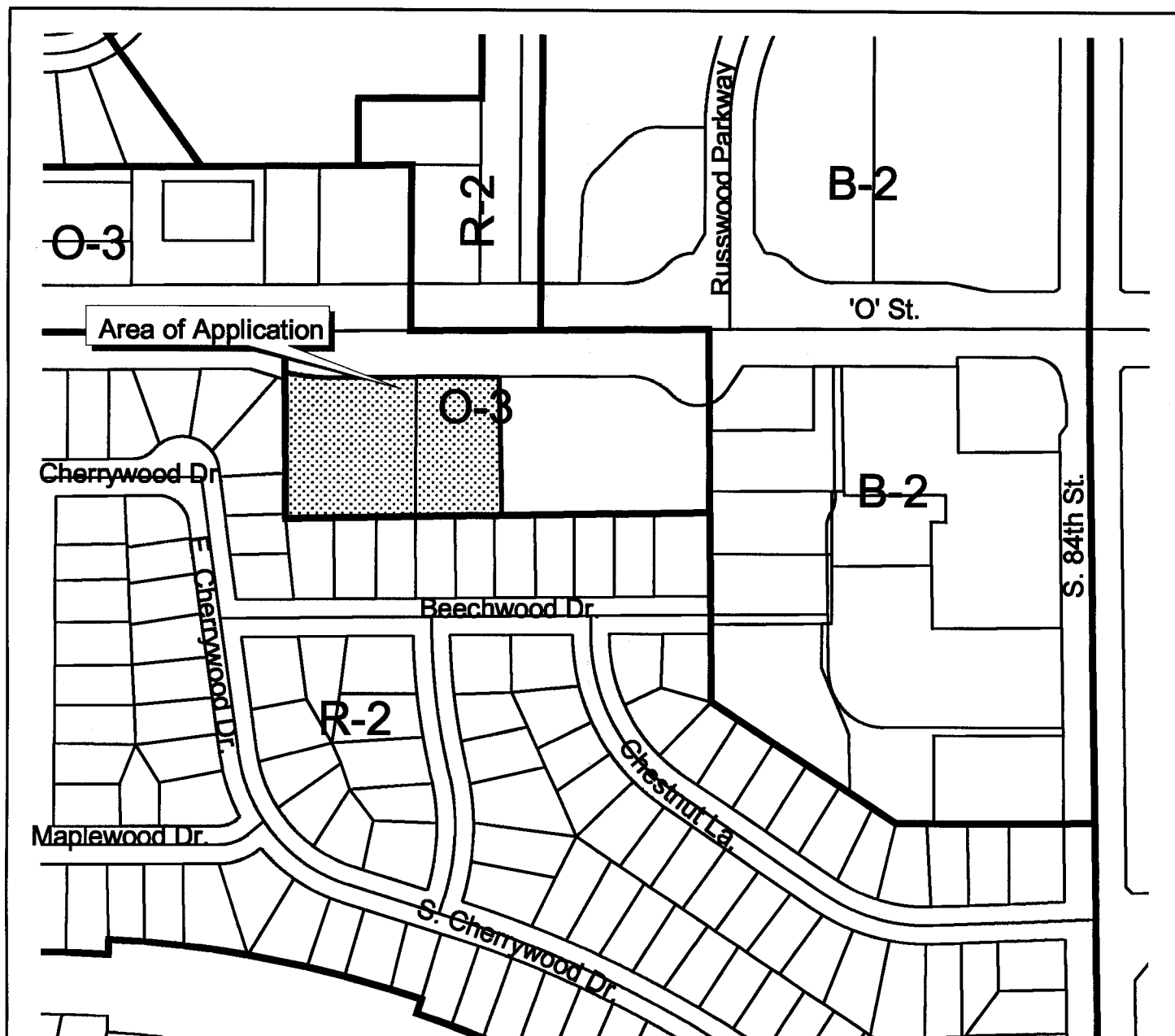
Hunter believes that the intended uses are probably desired but not necessarily known. If it should wind up being a physician type office, there may be a need for additional parking.

Bayer was guessing that the applicant is requesting 51,122 sq. ft. because that is what they need to make this work. They have done an excellent job on the property to the east.

Motion to amend Condition #2.1 to 51, 122 sq. ft. carried 6-3: Duvall, Schwinn, Taylor, Carlson, Krieser and Bayer voting 'yes'; Newman, Steward and Hunter voting 'no'.

Newman had serious misgivings about this because it is so close to the residential area. It is a lovely building, she likes the frontage road idea and she thinks it will be a great project. However, she would like to see matching buildings.

Motion for conditional approval, as amended, carried 9-0: Newman, Duvall, Schwinn, Taylor, Steward, Hunter, Carlson, Krieser and Bayer voting 'yes'.



Use Permit #136 80th & 'O' St.

Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

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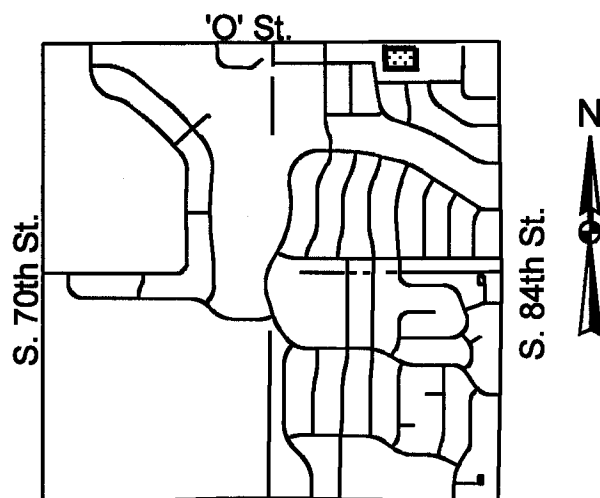
One Square Mile
Sec. 27 T10N R7E



Zoning Jurisdiction Lines



City Limit Jurisdiction



'A' St.

Sheet 1 of 3

Date: 1/12/01

Lincoln City - Lancaster County Planning Dept.

011





Use Permit #136
80th & 'O' St.



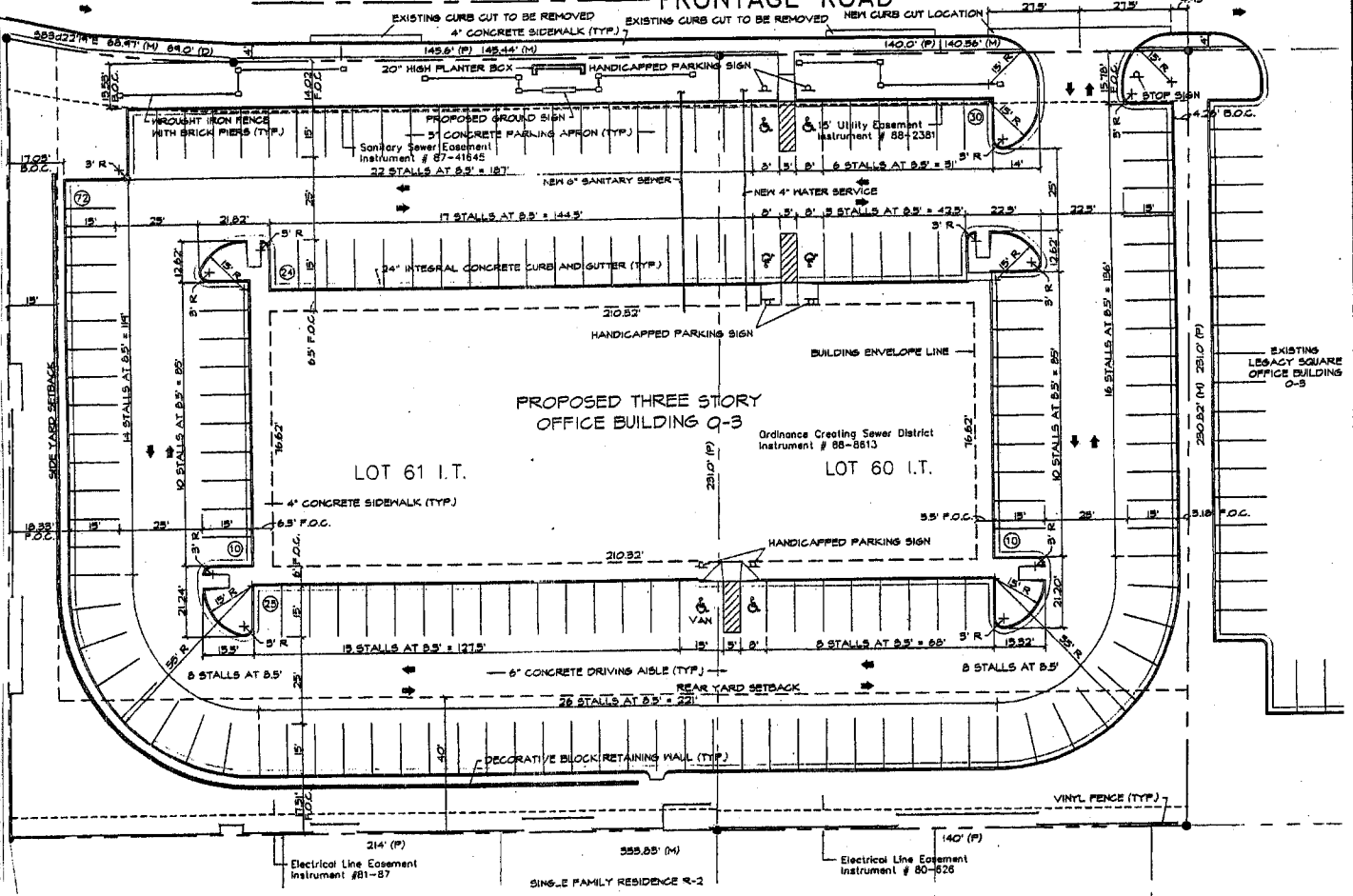
Sheet 2 of 3
 Date: 1/12/01 012
 Photograph Date: 1999
 Lincoln City - Lancaster County Planning Dept.

CL 'O' STREET

NEW DO NOT ENTER SIGN

EXISTING DO NOT ENTER SIGN

FRONTAGE ROAD



PROPOSED SITE PLAN



Ross
Engineering,
Inc.

Legacy Square II
8055 O Street
Lincoln, Nebraska

SCHOENLEBER, SHRINER & HITTLE

Architecture and Construction Consulting Services
123 So. 84th, Suite A, Lincoln, Nebraska 68510
(402) 483-2893

FAX: (402) 483-6499

E-MAIL: corp@ssh-arch.com

Use Permit #136
80th & 'O' St.

Sheet: 3 of 3
Date: 1/12/01

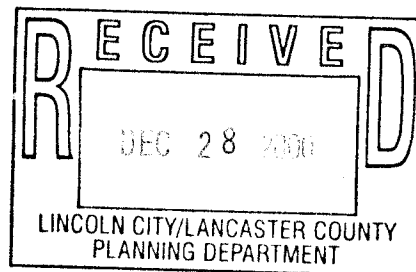




SCHOENLEBER, SHRINER & HITTLE
Architecture and Construction Consulting Services
123 South 84th • Suite A • Lincoln, Nebraska 68510 • (402) 483-2893

December 28, 2000

City County Building
Attn: Kathleen Sellman, Planning Director
555 South 10th Street
Lincoln, Nebraska 68508



RE: Use Permit Application for 8035 "O" Street, Lincoln, Nebraska

Planning Director:

On behalf of the Project Developer/Owner, Mr. Jerry Joyce, I am submitting this letter and attached information for the purpose of requesting a Use Permit for an Office Building at 8035 "O" Street, Lincoln, Nebraska. The proposed development is a permitted use in the O-3 zoning district, which the site is currently zoned and is consistent with the development approved on the adjacent property to the east developed by the same owner.

The developer is requesting a waiver to the front and east side yard requirements to allow parking within these yards as was permitted on the adjacent property. This waiver will allow the new development an opportunity to provide additional distance from the building to the neighbors to the south and also provide some additional green space at the north side of the building to soften it's "O" street appearance. With the proposed landscape and fence screening on the west and south property lines, it is felt that the development will have minimal visual or audible impact on adjacent properties. The "O" Street landscaping, fence and signage will visually enhance the entrance to the office complex.

The new office building is to be classified as a three-story building with a maximum height of 45 feet and maximum of 51,000 square feet of floor area. (Calculated as per section 27.03.250) The required parking for this structure would be $51,000/300 = 170$ stalls and these stalls are indicated on the attached plans. The new development will not require any increase of water, sanitary or gas utilities provided to the site and the storm drainage system has been designed to minimize site runoff to the existing storm sewer system, while improving an un-drainable situation that has existed for several years.

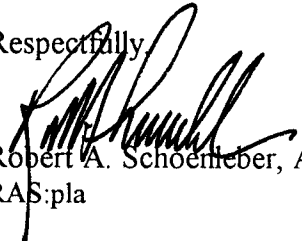
The developer has requested that it be mentioned that he is now the owner of record of Parcel #2 as of Friday, December 1, 2000, because that was the official date of closing on the property. The total combined square footages of the properties under this use permit application is less than two acres, but under Section 27.27.080 (m) this proposed development should be allowed, because up to this point the properties were under separate ownership and the new owner should also be granted reasonable use of this property.

Page 2 – Use Permit Application for 8035 “O” Street (continued)

The point of contact for this project is to be Mark Hunzeker, the owner's attorney. If there are any questions or concerns please call Mr. Hunzeker at (402) 476-7621 or write at 1045 Lincoln Mall, Suite 200, Lincoln, Nebraska 68508 for clarification or additional information.

As per discussion with Ray Hill, we are submitting 20 copies of proposed plan for the use permit information for your review and the \$585.00 filing fee.

Respectfully



Robert A. Schoenleber, AIA
RAS:pla

Attachments



Call: May 11

SCHOENLEBER, SHRINER & HITTLE
Architecture and Construction Consulting Services
123 South 84th • Suite A • Lincoln, Nebraska 68510 • (402) 483-2893

January 11, 2001

City County Building
Attn: Kathleen Sellman, Planning Director
555 South 10th Street
Lincoln, Nebraska 68508

RE: Request for waiver of Design Standards for 8035 "O" Street, Lincoln, Nebraska

Planning Director:

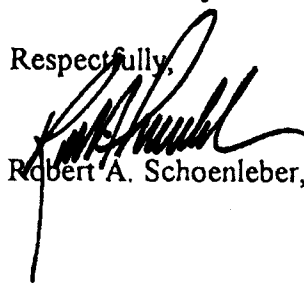
On behalf of the Project Developer/Owner, Mr. Jerry Joyce, I am submitting this letter for the purpose of requesting a waiver of the City of Lincoln Design Standards for Landscape Screening for the proposed new Office Building at 8035 "O" Street, Lincoln, Nebraska.

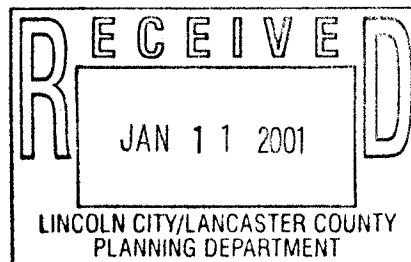
The developer is requesting this waiver of the Design Standards for Landscape Screening to allow a Landscaping Plan (submitted with Special Use Permit Information) that provides a unique solution to the screening of the building from neighboring properties and from "O" Street. It is felt that the proposed solution, while not conforming to the actual screening requirements, provides the development with more than the required amounts of plantings and fencing and that these landscaping materials are located in a manner that better accentuates the perimeter screening of the property.

We ask that you consider this request as part of our submittal for a Special Use Permit for the above reference project

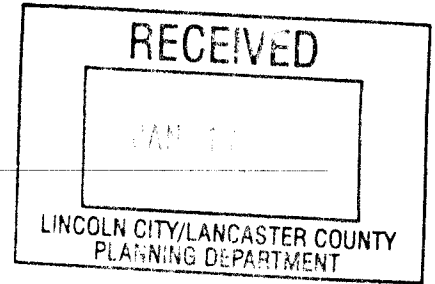
If there are any questions or concerns regarding this request please call Mr. Hunzeker at (402) 476-7621 or myself at (402) 483-2893 for clarification and additional information.

Respectfully,


Robert A. Schoenleber, AIA



Memorandum



To: Ray Hill, Planning Department
From: Charles W. Baker, Public Works and Utilities *Butt*
Subject: Use Permit #136
Date: January 12, 2001
cc: Allan Abbott, Roger Figard, Nicole Fleck-Tooze

The City Engineer's Office of the Department of Public Works and Utilities has reviewed the site plan for Legacy Square Phase II located at 8055 "O" Street and has the following comments:

A waiver is being requested to allow parking in the front and east side yards. Public Works recommends that the proposed 25' wide drive aisles be reduced to 24' wide which meets Design Standards. This will reduce the impact on the parking in the required yards.

The storm sewer and detention as proposed is satisfactory.

-LES INTER-DEPARTMENT COMMUNICATION

DATE January 8, 2001
TO Jason Reynolds, City Planning
FROM Sharon Theobald ✓
(Ext. 7640)
SUBJECT DEDICATED EASEMENTS
DN #1S-80E

Attached is the Use Permit Application for Legacy Square II.

ALLTEL, Time Warner Cable, and the Lincoln Electric System will not require any additional easements.

Sharon Theobald

ST/nh
Attachment
c: Terry Wiebke
Easement File

TO: Jason Reynolds

DEPARTMENT: Planning

ATTENTION:

CARBONS TO: Leon F. Vinci, MPH
EH File
EH Administration

The Lincoln-Lancaster County Health Department (LLCHD) has reviewed the application for the use permit for an office building located at 8035 'O' Street in Lincoln, Nebraska for potential negative environmental health impacts.

At this time, the LLCHD not identified any serious negative environmental health impacts.

RECEIVED
JAN 23 2001
LINCOLN CITY/LANCASTER COUNTY
PLANNING DEPARTMENT